

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Ingleside Post Office
(Ingleside, MD)

Docket No. A2011-99

REPLY BRIEF OF THE PUBLIC REPRESENTATIVE

(December 7, 2011)

I. INTRODUCTION AND BACKGROUND

On September 28, 2011, the Commission docketed the petition for review of the closing of the Ingleside Post Office.¹ On September 30, 2011, the Commission issued an order instituting the current review proceedings, appointing a Public Representative, and establishing a procedural schedule.² Thereafter, on October 13, 2011, the Postal Service filed an electronic version of the administrative record concerning its Final Determination (FD), Postal Service Docket Number 1367944 - 21644.³

The Petitioner, Christopher Vaught, has filed a Participant Statement in lieu of a formal legal brief in which he sets forth his objections to the closure of Ingleside Post Office.⁴ The Postal Service filed comments supporting its closure determination on November 22, 2011, in lieu of a legal brief.⁵

¹ Petition for Review Received from Christopher Vaught Regarding the Ingleside, MD Post Office 21644, September 28, 2011. (Petition)

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 30, 2011. (Order No. 892).

³ Title of Administrative Record, date of filing. (AR)

⁴ Participant Statement of name petitioner, date of filing. (Participant Statement)

⁵ United States Postal Service Comments Regarding Appeal, date of filing (Postal Service Comments).

II. STATEMENT OF FACTS

The Ingleside Post Office is described by the Postal Service in its Final Determination as an EAS-55 level post office in Ingleside, MD, located in Queen Anne county. AR Item No. 1, 13. Before being closed the Ingleside Post Office provided service to 22 post office box customers and an average of 18 daily window transactions. AR Item No. 8, 10.

On December 7, 2010, the Manager of Postal Operations requested permission to investigate the possible closure of the Ingleside Post Office. AR Item No. 1. The request was granted. *Id.*

On March 4, 2011, the Postal Service notified customers of the Ingleside Post Office of a "possible change in the way your postal service is provided." AR Item No. 21. As described in the notice, customers were given the option of receiving pickup, delivery, sale of stamps and all other customary postal services, by rural route service from the Barclay Post Office located 3.5 miles away. *Id.* Included was a questionnaire to be completed and returned by March 25, 2011. *Id.* In addition, customers were invited to attend a public meeting on March 25, 2011, at which Postal Service representatives would be available to answer questions and provide information about postal service. *Id.*

Of the 66 questionnaires distributed by the Postal Service, 17 were completed and returned: 3 responded favorably to the proposal; none expressed opposition or concern; and 14 expressed no opinion. AR Item No. 23.⁶ The meeting was held on March 25, 2011, as scheduled with 10 customers in attendance. AR Item No. 24.

On April 27, 2011, a formal proposal to close the Ingleside Post Office was forwarded to that post office for posting for a period of sixty days. AR Item No. 31. An invitation to file comments was also posted in the Ingleside Post Office. *Id.* Thirteen unfavorable comments were received during the posting period that ended July 13,

⁶ However, it is unclear how the Postal Service groups surveys into the three categories: favorable, unfavorable, and no opinion.

2011. AR Item No. 40. That proposal was transmitted to the Vice President for Delivery and Post Office Operations on July 22, 2011. AR Item No. 45.

On August 8, 2011, the Final Determination to close the Ingleside Post Office was approved. AR Item No. 54. The Final Determination did consider and respond to various concerns expressed by postal customers. AR Item No. 47.

III. POSITIONS OF THE PARTIES

A. The Petitioner

In the Petition, the Petitioner presents three arguments in opposition to the closing of the Ingleside Post Office: (1) impact on community; (2) impact on postal services; and (3) economic savings. Petition at 1. Specifically, the Petitioner is concerned about the distance he must travel to purchase international services. Petitioner Statement. He is also concerned that rural post offices are being closed while urban offices remain open and the potential hardship associated with conducting transactions with rural carriers. *Id.*

B. The Postal Service

On November 22, 2011, the Postal Service filed comments in lieu of the answering brief permitted by Order No. 892. In that filing, the Postal Service supports its decision to close Ingleside Post Office, on the basis that: (1) postmaster vacancy; (2) minimal workload; (3) declining revenue; (4) existence of alternative delivery and retail options; (5) minimal impact upon the community and employees; and (5) expected financial savings. Postal Comments at 4.

IV. STANDARD OF REVIEW AND APPLICABLE LAW

A. Standard of Review

The Commission's authority to review post office closings provided by 39 U.S.C. § 404(d)(5). That section requires that the Postal Service's determination be reviewed

on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds are: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.⁷

B. The Law Governing Postal Service Determinations

Prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. § 404 to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the economic savings to the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. § 404(d)(2)(A)

In addition, the Postal Service's final determination must be in writing, address the aforementioned considerations, and be made available to persons served by the post office. 39 U.S.C. § 404(d)(3). Finally, the Postal Service is prohibited from taking any action to close a post office until 60 days after its final determination is made available. 39 U.S.C. § 404(d)(4).

⁷ Section 404(d)(5) also authorizes the Commission to suspend the effectiveness of a Postal Service determination pending disposition of the appeal. The petitioner in this proceeding did not request suspension of the closure of the Ingleside Post Office.

V. ADEQUACY OF THE POSTAL SERVICE'S FINAL DETERMINATION

After careful review of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by Petitioner and the Petition submitted by customers of the Ingleside Post Office, and the Postal Service Comments, the Public Representative concludes that the Postal Service has followed applicable procedures, that the decision to close the Ingleside Post Office is not arbitrary or capricious, and that the Postal Service's decision is supported by substantial evidence.

VI. CONCLUSION

For the reasons set forth above, the decision of the Postal Service to close the Ingleside Post Office should be affirmed.

Respectfully Submitted,

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